



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/574,959	04/07/2006	Johan Elgebrant	1027651-000503	8429

21839 7590 05/12/2011
BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

EXAMINER

BYRD, LATRICE CHENELL

ART UNIT	PAPER NUMBER
----------	--------------

3782

NOTIFICATION DATE	DELIVERY MODE
-------------------	---------------

05/12/2011

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ADIPFDD@bipc.com
offserv@bipc.com

Office Action Summary	Application No. 10/574,959	Applicant(s) ELGEBRANT, JOHAN	
	Examiner LATRICE BYRD	Art Unit 3782	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 February 2011.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 11-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 11-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 4/7/06 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>2/9/11 and 3/11/11</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-7, 11-15 and 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reil (USPN 4,934,585) in view Aikawa et al. (JP 9,290,852).

3. In re claims 1, 4, 7, 12, 15 and 19-21, Reil discloses a packaging container comprising a first portion (5) formed of a first material or material combination, a lid (1) provided on the first portion and configured to be at least partially removed from the first portion so that a free edge (15) of the first portion is exposed and defines a pouring opening in the first portion with a tearing line (17), and a second portion (6) formed of a second material or material combination different from the first material or material combination. Reil fails to disclose the tearing line extending essentially from the pouring opening toward an interface between the first and second portion and essentially along an entirety of the interface. However, Aikawa et al. teaches forming a tear line (7) defined by a weakening line extending from a pouring opening at 5 toward an interface (10) and essentially along the entirety of the interface. It would have been obvious to one of ordinary skill in the art to have extended the tear line of Reil to an interface between the first and second portions and essentially along the entirety of the interface

Art Unit: 3782

as taught by Aikawa et al. in order to easily remove the collar the portion of the container having a different material for recycling.

4. In re claim 2, Reil discloses a packaging container wherein the first portion of the container is generally formed of a plastic material.

5. In re claims 3 and 11, Reil discloses a packaging container wherein the second portion of the container is generally formed of fibre based packaging laminate.

6. In re claims 5 and 13, Reil discloses a packaging container wherein the first portion of the container is formed by injection moulding of a plastic material into a mould (col. 2, lines 2-5).

7. In re claims 6 and 14, Reil discloses a packaging material wherein the weakening line is a portion of smaller wall thickness than surrounding portions, with an inferior wall thickness being formed by a groove on the outside of the first portion.

8. Claims 8 and 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reil (USPN 4,934,585) and Aikawa et al. (JP 9,290,852) as applied to claims 1-4 above, and further in view Larrison (USPN 4,942,974).

9. In re claims 8 and 16-18, Reil discloses the claimed invention except tear line having a pull tab. However, Larrison teaches having a pull tab (56) defined by tear lines (60,62). It would have been obvious to one of ordinary skill in the art to have included a pull tab in the packaging container of Reil as taught by Larrison in order to further facilitate removal of the collar by providing a grasping portion for the user.

Response to Arguments

10. Applicant's arguments filed 2/9/11 have been fully considered but they are not persuasive. In response to applicant's argument that the materials of the first and second portions of Reil are the same, examiner respectfully disagrees. The abstract of the Reil reference clearly states, "a package container for jams, comprising **a tube-shaped part (6) which consists of synthetic plastics coated paper..... an integrally molded closure means (5) which consists only of synthetic plastics material.**"

The claim recites "a first material of material combination" (i.e. synthetic plastics coated paper) and "a second material or material combination" (i.e. only of synthetic plastics material). Therefore, Reil discloses two different materials or material combinations as claimed.

Conclusion

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

Art Unit: 3782

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LATRICE BYRD whose telephone number is (571)270-5703. The examiner can normally be reached on Mon-Thu 9:30am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/LATRICE BYRD/
Examiner, Art Unit 3782

/Gary E. Elkins/
Primary Examiner, Art Unit 3782